

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 5**

REUTERS OF AMERICA, LLC¹

Employer

and

Case 5-RC-15824

NEWSPAPER GUILD OF NEW YORK,
LOCAL 3, AFL-CIO.

Petitioner

DECISION AND ORDER

ISSUE

The sole issue in this proceeding is whether the petition filed by Newspaper Guild of New York, Local 3, AFL-CIO (“Petitioner”) on January 28, 2005 to become the exclusive bargaining representative of the bargaining unit² of employees employed by Reuters of America, LLC (“Employer”) should be dismissed because of the Employer’s imminent cessation of its web desk operations.

PETITIONER’S POSITION

The Petitioner contends that the petition should be processed and an election directed because the Employer’s asserted plans to cease operations is speculative and that a dismissal of the petition would not effectuate the purposes of the Act. Specifically, the Petitioner maintains that work for the web desk will remain for some uncertain time period; thus, the Union has time to negotiate with the Employer in hopes to dissuade any possible move or engage in impact bargaining regarding the employees affected by the possible moving of the web desk employees.

At the hearing, the Petitioner called as witnesses Michael Sales and Peter Szekely. Sales is employed by the Employer at its web desk in Washington, D.C., and Szekely is a

¹ The Employer’s name appears as amended at the Hearing.

² At the hearing, the Parties stipulated to the following classifications of employees as constituting an appropriate unit:

All full-time and regular part-time web desk employees employed by the Employer at its H Street, N.W., Washington, D.C. location, but excluding on line developers and all other employees, guards and supervisors as defined in the Act.

correspondent employed by the Employer and also holds the position of Local Chairperson of the Newspaper Guild of New York.

EMPLOYER'S POSITION

The Employer contends that the Petition should be dismissed because the Employer plans to cease web desk operations in Washington, D.C. Specifically, the Employer maintains that the processing of the petition would be inappropriate under well-established Board law. According to the Employer, it is presently in the process of moving the Washington, D.C. web desk work to Toronto, Canada.

At the hearing the Employer called as its witness Glenn Russo, Vice President Human Resources for Editorial and the Americas.

CONCLUSION

For the reasons that follow in this decision, and after careful consideration of the totality of the record evidence and the Employer's and Petitioner's legal positions set forth in their post-hearing briefs, I find that the Employer has presented sufficient evidence to establish that its cessation of web desk operations in Washington, D.C. is certain and imminent. Accordingly, it would not effectuate the purposes of the Act to direct an election herein.

FACTUAL SETTING

The Employer's web desk operations are located in Washington, D.C., London, England, and Toronto, Canada. Web desk employees post pictures, video, and graphics to stories the Employer has already written for the U.S. online report and Reuters.com. There are four web desk employees in Washington, D.C.

On November 4, 2004, the Employer issued a "Daily Briefing" to its employees announcing the consolidation of various editorial functions, including multimedia efforts which encompasses the web desk functions. On that same day, the Employer met with the web desk employees located in Washington, D.C. and notified them of a pilot program and possible relocation of the Washington, D.C. web desk operations to Toronto, Canada.

Since a number of the employees affected by the consolidation of various editorial functions are currently represented by the Petitioner, by letter dated November 4, 2004, the Employer notified the Petitioner of the pending consolidation. By letter dated December 20, 2004, the Petitioner demanded that the Employer recognize the Petitioner as the bargaining representative of the web desk employees in Washington, D.C. On December 22, 2004, the Employer met with the Petitioner and informed the Petitioner of the web desk pilot program and possible consolidation of web desk operations in Toronto, Canada.

By letter dated February 22, 2005, the Employer formally announced the consolidation and elimination of the Washington, D.C. web desk operations.³ Specifically, the Employer stated that the web desk will be consolidated in Toronto, Canada by the end of April 2005. The web desk positions in Washington, D.C. will be eliminated the close of business on May 2, 2005.

ANALYSIS

The Board's longstanding policy is that it will not conduct an election where permanent layoff is imminent and certain. *Larson Plywood Company*, 223 NLRB 1161 (1976) Although there is no bright-line test in making that determination, the Board looks to the totality of circumstances and requires that an employer's stated intention to cease operations is based on evidence that is more than speculative. See, *Canterbury of Puerto Rico, Inc.* 225 NLRB 309 (1976).

In the instant case, the Employer informed web desk employees and the Petitioner of its pilot program and possible elimination of the Washington, D.C. web desk operations. Specifically, the Employer had meetings with the web desk employees in November 2004 and also met with the Petitioner in December 2004 to alert them to the pilot program and planned elimination of the Washington, D.C. operations. The Employer also issued a written article on its online newspaper publication ("Daily Briefing") alerting employees to the fact that Employer intended to consolidate its web desk operations to Toronto, Canada. Lastly, the Employer on February 22, 2005 issued a confirmation letter to the Petitioner that the web desk positions in Washington, D.C. would be eliminated as of May 2, 2005.

Based on the facts of this case, I find that the Employer has established that cessation of web desk operations in its Washington, D.C. office is certain and imminent.⁴ Accordingly, in dismissing the petition, I find that it would not effectuate the policies of the Act to conduct an election at this time.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570-

³ Web desk employees were told by the Employer that if they did not relocate to Toronto, Canada they would be laid off.

⁴ The Petitioner cites *Hazard Express, Inc.*, 324 NLRB 989 (1997), in support of its contention that the petition should not be dismissed. I find that Petitioner's reliance on *Hazard Express, Inc.* is misplaced. Unlike in the instant case, there was no evidence in *Hazard Express, Inc.*, showing that the employer was terminating its operations or planned to do so in the future. Accordingly, I do not find Petitioner's argument persuasive.

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March 1, 2005

0001. This request must be received by the Board in Washington by 5 p.m., EDT on March 15, 2005. The request may not be filed by facsimile.

(SEAL)

/s/WAYNE R. GOLD

Dated: March 1, 2005

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